

Exhibit “C”

Vincent Schiraldi, Commissioner



Elizabeth Lundi, Esq.
Assistant Commissioner of EEO & EEO Officer
Equal Employment Opportunity
75-20 Astoria Blvd, Suite #390, East Elmhurst,
New York, 11370
718-546-0861, Fax 718-278-6027

November 10, 2021

Re: Reasonable Accommodation request – Letter of Determination

Dear Gennaro Agovino:

The Office of EEO received your reasonable accommodation request on October 27, 2021 wherein you requested to be exempt from the COVID-19 vaccine due to your Christian faith. The Department of Correction (“the Department”) has reviewed your request and cannot accommodate your request.

You requested to be exempt from the COVID-19 vaccine due to your religious beliefs. Your request cannot be accommodated because it presents an undue hardship to the Department as it presents a direct threat to members of service, the public and those detained by the Department.

The Department provides for the care, custody and control of persons accused of crimes or convicted and sentenced to one year or less of jail time. The facilities maintained by the Department are often confined spaces with narrow passages that do not always allow for social distancing. The layout and the duration of time people spend near each other in the facilities allows for the easy transmission of COVID-19. Due to this, many Members of Service have contracted COVID-19 during the pandemic, and some Members of Service and detainees have died due to the virus. Furthermore, the Department interacts with visiting members of the public on a regular basis. Since the public frequently visits detainees and interacts with Members of Service, they may introduce COVID-19 into the facilities where it can be transmitted to Members of Service and to detainees within our custody. The Department’s primary responsibility is the care, custody and control of a captive population.

Since we are charged with the health and safety of detained individuals, COVID-19 presents a direct and unique threat to this Department. Getting vaccinated is an important measure to protect the health, safety and wellbeing of those in our custody, as well as the health, safety and wellbeing of fellow Members of Service. Asymptomatic transmission of COVID-19 is possible; an individual can transmit COVID-19 to others unknowingly and without any symptoms. Therefore, masks and weekly testing may be insufficient to control the spread of COVID-19 in the Department. Getting vaccinated will help the Department fulfill its mission of care, custody and control. The CDC has indicated that you are less likely to contract COVID-19 and/or become seriously ill from COVID-19 if you are vaccinated.

At the Department, many non-uniformed Members of Service work directly with detainees or enter the jails to perform their functions. Additionally, non-uniformed Members of Service work closely and in collaboration with uniformed Members of Service in non-jail and/or office settings. These uniformed Members of Service assigned to non-jail Commands are regularly redeployed to the jails to cover staffing shortages. Therefore, it is possible for non-uniformed Members of Service to transmit COVID-19 to these officers who could then introduce COVID-19 into the jail facilities

while they are redeployed. It is imperative that non-uniformed employees who perform functions in the jails or who work with uniformed Members of Service in non-jail settings also receive the COVID-19 vaccine to protect both their coworkers and detainees.

Please be advised that you may appeal this decision online through www.nyc.gov/vaxappeal. You must appeal within three business days from receipt of this determination. For employees who do not have agency e-mail, you should notify the agency EEO Officer, Assistant Commissioner Elizabeth Lundi, of your desire to appeal within three business days of this determination, and the agency EEO Officer will file the appeal for you. If you are a union member, please also consult with your union to determine if you have a right to appeal this decision through arbitration. A list of unions that may have arbitration agreements is included on a separate page with the waiver that must be completed in order to seek arbitration to appeal this determination.

Should you have any questions, please call Bijan Vafegh at (718) 546-0868 or Nancy Bleakley at (718) 546-0943.

Sincerely,



Bijan Vafegh, Esq., Disability Rights Coordinator, EEO

Please note that the following unions have arbitration agreements:

District Council 37, Teamsters Local 237, Organization of Staff Analysts, Uniformed Sanitationmen's Association, Local 831 IBT, SEIU Local 300, Sanitation Officers Association, Uniformed Sanitation Chiefs Association, CWA 1180, CSBA, Probation Officers, Local 246 SEIU, CWA Local 1181, CWA Local 1182, Doctors Council, Local 621, IUOE Local 30, IUOE Local 15, DC-9 Local 806, DC-9 Local 1969, NYSNA, Fire Alarm Dispatchers, Deputy Sheriffs, MMP, Steamfitters.

If you are a member of the above-mentioned unions and wish to appeal this decision through arbitration, please complete the below waiver:

I, **[name]**, acknowledge that Department of Correction's EEO Office has denied my **[medical or religious]** accommodation request. I am aware that I am entitled to appeal this denial via the central Citywide appeal panel. I understand that by executing this Waiver I am agreeing to appeal the denial of my accommodation request to Scheinman Arbitration and Mediation Services (SAMS). I understand that the SAMS arbitration shall be conducted in accordance with **[insert applicable local agreement]**. The SAMS arbitration decision and award shall be final and binding and enforceable in any appropriate tribunal in accordance with Article 75 of the Civil Practice Law and Rules. As a condition of proceeding to SAMS arbitration on this appeal, I agree not to file any action or proceeding against either the City of New York or the Department of Correction or any and all past or present officials, employees or represents of the City of New York challenging the accommodation process and/or denial and do hereby acknowledge, release and discharge the City of New York and the Department of Correction from all liability, claims, demands, causes of action, obligations, damages and grievances that arise out of my request for an accommodation and the SAMS arbitration and award, except that nothing in this Waiver precludes me from commencing an Article 75 proceeding in connection with the SAMS arbitration and award.